

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ANGELA MATTHEWS	§	CIVIL ACTION
Plaintiff	§	
	§	
VS.	§	NO. 1:22-CV-356
	§	
WALMART STORES TEXAS, L.L.C.	§	
Defendant	§	JURY

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW Defendant, WALMART STORES TEXAS, LLC, in accordance with 28 U.S.C. §§ 1332, 1441, and 1446 *et seq.*, and files its Notice of Removal of the above-styled case from the Orange County Court at Law No. 2, Orange County, Texas, to the United States District Court for the Eastern District of Texas, Beaumont Division, based on diversity of citizenship of the parties.

Pursuant to the applicable federal statutes and the Local Rules for the Eastern District of Texas, Defendant attaches the following documents in support of this Notice of Removal:

1. Attachment A - State Court Petition;
2. Attachment B - Citation of Service and Notice of Service of Process on Walmart Stores Texas, LLC;
3. Attachment C - Defendant Walmart Stores Texas, LLC's State Court Answer;
4. Attachment D - Civil Docket;
5. Attachment E - List of Parties and Counsel;
6. Attachment F - State Court Information Sheet; and,
7. Attachment G - Plaintiff's Demand dated August 5, 2022.

The documents attached hereto as Attachment “A” through “C” comprise true and correct copies of all executed process and pleadings served upon Defendant and of all documents filed in the state court action.

In filing this Notice of Removal, Defendant expressly reserves all other questions other than that of removal, for the purpose of further pleadings.

I. **STATE COURT ACTION**

Plaintiff’s Original Petition, styled *Angela Matthews vs. Walmart Stores Texas, L.L.C.*, Cause No. A-209754, was filed on May 3, 2022, in Jefferson County, Texas, and assigned to the 58th Judicial District Court, Beaumont, Texas located at 1085 Pearl Street, Beaumont TX 77701.

II. **PLAINTIFF’S ALLEGATIONS**

Plaintiff alleges she was walking in the Walmart store located in Beaumont, Texas when she slipped and fell on an object on the floor. *See* Exhibit “A” – Plaintiff’s Original Petition, at § 6. Plaintiff alleges Defendant is liable under the theories of negligence and premises liability and that such negligence was a proximate cause of injuries and damages to Plaintiff. *See Id.* at §§ 9 and 10. Plaintiff’s Original Petition filed on May 3, 2022, alleged an amount in controversy of not more than \$75,000. *See Id.* at §3. **However, on August 5, 2022, Plaintiff submitted a settlement demand for \$500,000.00.** *See* Exhibit G.

III. **PARTIES - DIVERSITY OF CITIZENSHIP**

Plaintiff is a citizen of Jefferson County, Texas.

Defendant, Walmart Stores Texas, LLC, is a Delaware limited liability company, and is an indirectly, wholly-owned subsidiary of Wal-Mart, Inc. The sole member of Walmart Stores

Texas, LLC, is Walmart Real Estate Business Trust. The sole unit holder of Walmart Real Estate Business Trust is Walmart Property Co. which is a wholly owned subsidiary of Walmart Stores East, LP. Walmart Stores East, LP, a Delaware limited partnership, of which WSE Management, LLC, is the general partner, and WSE Investment, LLC, is the limited partner. The sole member of WSE Management, LLC, and WSE Investment, LLC, is Walmart Stores East, LLC (fka Walmart Stores East, Inc.), whose parent company is Walmart, Inc. The principal place of business of Walmart Stores Texas, LLC, is Bentonville, Arkansas. Walmart, Inc., is a Delaware corporation with its principal place of business in Arkansas. Accordingly, there is complete diversity of citizenship between Plaintiff and the Defendant. 28 U.S.C. §§ 1332, 1441.

IV. AMOUNT IN CONTROVERSY

The state court action is one over which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1332 because it is a civil action wherein Plaintiff alleges that the matter in controversy exceeds the minimum jurisdictional limits of this Court exclusive of interest and costs and because the action is between citizens of different states.

Although Plaintiff's Original Petition filed on May 3, 2022, alleged an amount in controversy of not more than \$75,000; **on August 5, 2022, Plaintiff submitted a settlement demand to Defendant for \$500,000.00.** *See Id.* at §3 and see Exhibit G. The demand also asserts that Plaintiff has incurred \$56,771.00 in past medical expenses as a result of the incident. *See* Exhibit G. Accordingly, Defendant has established that Plaintiff's alleged amount in controversy is sufficient to confer federal jurisdiction in this Court. For the reasons stated above, this Court has original jurisdiction of this case pursuant to 28 U.S.C. §1332(a).

V.
REMOVAL IS TIMELY

Removal is timely. On August 5, 2022, counsel for Defendant received the settlement demand from Plaintiff's counsel which asserts that the alleged amount in controversy is now over \$75,000. Accordingly, Defendant received the information less than 30 days from filing this Notice of Removal. *See* 28 U.S.C. § 1446(b).

VI.
VENUE

This is a statutorily proper venue under the provisions of 28 U.S.C. § 1441(a) because the district and division embrace the place where the removed action has been pending.

VII.
FILING WITH STATE COURT AND NOTICE TO PLAINTIFF

Upon filing of this Notice of Removal of the cause, Defendant gave written notice of the filing to the Plaintiff through Plaintiff's counsel as required by law. A copy of this Notice is also being filed with the 58th Judicial District Court of Jefferson County, Texas, where this cause was originally filed. A copy of all processes, pleadings, and orders has been filed separately with this Court pursuant to 28 U.S.C. § 1446(a).

VIII.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant, WALMART STORES TEXAS, LLC, prays that the United States District Court for the Eastern District of Texas, Beaumont Division, accept this Notice of Removal and assume jurisdiction of this matter and issue any orders and processes necessary to bring Plaintiff, ANGELA MATTHEWS, and Defendant, WALMART STORES TEXAS, L.L.C., before it, and to effectively prevent further proceedings of this case in the 58th Judicial District Court of Jefferson County, Texas.

Respectfully submitted,

MEHAFFY WEBER, P.C.

/s/ Karen L. Spivey

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to opposing counsel of record on this 29th day of August, 2022, in accordance with the Federal Rules of Civil Procedure by certified mail, addressed as follows:

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/s/ Karen L. Spivey

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